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OFFICE OF PETITIONS

In re Application of
Tenorio
Application No. 10/032,945
Filed: September 27, 2001
Attorney Docket No. 020431.0953

: DECISION DISMISSING
: PETITION
:
:

This is a decision on the petition, filed February 20, 2002, requesting that a "Notice Of Omitted Item(s) in Nonprovisional Application (Notice)," mailed January 30, 2002, in the above-identified application be withdrawn.

The application was filed on September 27, 2001. However, on January 30, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of September 27, 2001, and advising applicant that Figure 3, as described in the specification, appeared to be missing.

In response, the present petition was filed. The petition argues that 5 sheets of drawings were filed on September 27, 2001. In support, the petition is accompanied by, *inter alia*, a copy of applicant's itemized date stamped postcard receipt showing 5 sheets of drawings were received by the Patent and Trademark Office (Office) on September 27, 2001.

A review of the drawings filed on September 27, 2001, confirms that they included all 5 sheets of drawings. However, no figure labeled Figure 3 is found. Instead, the drawings contain a Figure 4.

It appears from the petition that no drawing was actually missing on September 27, 2001, and that applicant does not intend to file any additional sheets of drawings. Figure 3 was mislabeled as Figure 4.

Petitioner has submitted corrected formal drawings, including a Figure 3, by means of a preliminary amendment.¹ The application will be processed with Figure 3.

However, the "Notice" mailed January 30, 2002, was correct in advising applicant that the drawing of Figure 3 appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

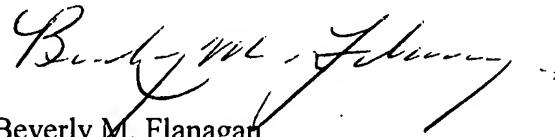
Pursuant to petitioner's authorization, the petition fee of \$130.00 will be charged to deposit account no. 02-03384.

The petition is dismissed.

¹ Now that this application does not include a Figure 4, petitioner should make changes to the specification to reflect the existence of Figures 4A and 4B.

The application is being returned the Office of Initial Patent Examination with the presently accorded filing date of September 27, 2001, using the sheet of drawing containing Figure 3, filed on February 20, 2002.

Telephone inquiries concerning this decision should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



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for Patent Examination Policy